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which the courts themselves have prescribed for their governance in these matters and an abundant citation of authorities to support his criticisms and contentions." Indeed, the excerpts from judicial opinions are so numerous and extended as to suggest the view, that the author hoped to spare the brief writer the task of examining the original reports.

That the work will prove as useful to the student, as to the practitioner may be doubted, notwithstanding the confident assertion of the author. It does not appear to be preeminently scientific, though its alternative title is "The Science of Case Law." His treatment of the subject is not as analytical and logical as it is desultory and discursive. Judicial precedents are dealt with from many points of view, but the reader finds difficulty in discovering *the law* of judicial precedents which the author sought to evolve. His attention is so attracted—at times distracted—by rare and interesting trees that he seldom gets a glimpse of the forest.

How broad and diversified the area of this treatise really is may be gathered from the following breath-exhausting sentence in the Preface: "The work has been made to include an extended consideration of the nature and authority of judicial precedents; their place in comparative jurisprudence and in equity; the rules which govern the interpretation of judicial decisions and opinions; the processes or analogical argument of combining cases; the various and complicated considerations which may affect the force and value of non-obligatory precedent; the nature of dicta and the method of their detection and the reasons for their want of authority; the general doctrine of *stare decisis*, with its special applications and cases of constitutional and statutory construction, to those judgments which have become "rules of property," and to "the law of the case"; the authority of precedents as between the several courts of the federal system; the use of precedents from other states and foreign countries, with the various causes which may affect their rank in the scale of authority, the reasons for approving them or for criticising them, and the underlying principles which induce the courts to follow "the better reason" or the "general current of authority"; the effect of the decisions of the United States Courts as authorities in the courts of the states; the great and difficult subject of the cases in which the federal courts are constrained to accept and follow the decisions of the state courts and those in which they hold themselves free to form an independent judgment; and finally, the effect of the reversal of overruling of previous judicial decisions."

Francis M. Burdick.

A TREATISE ON NEW TRIAL AND APPEAL. Presenting and illustrating the laws and rules of practice in California, Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, Wyoming. By ROBERT Y. HAYNE of the San Francisco Bar. Revised and re-edited to January, 1912, by J. R. PRINGLE of the San Francisco Bar and W. H. HYATT of the Los Angeles Bar. San Francisco: BANCROFT-WHITNEY COMPANY, 1912, Vol. I, pp. cclvi, 1-878; Vol. II, pp. 879-1902.

The first edition of this work, edited by Mr. Hayne, appeared in 1883. The destruction by fire in 1906 of the publisher's plates to this earlier edition induced Mr. Pringle and Mr. Hyatt to undertake the present revision.

Vol. I, pp. i-cclvi, contains a "Table of Contents," "Table of Cases Cited" and "Table of Citations" from the constitutions, statutes and codes of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota (under head "North Dakota"—typographical error), Utah, Washington and Wyoming. The balance of Vol. I, pp. 1-878, is taken up with the subject of "New Trial." Vol. II, pp. 879-1811, treats entirely of "Appeal" and is followed by a very complete "Index" (pp. 1812-1902).

The authors have handled both subjects in similar manner. The text or main subject matter of the work reviews each step in procedure under the earliest statutory and code provisions of California relating thereto (quoting the same in full), through their amendments and down to date. It also contains very full quotations from the California decisions rendered under each of these provisions and their amendments, the arrangement being such that their reader has no difficulty in connecting the decision with the contemporary statutory provision. This method of combining with the strictly text discussion, full quotations of the statutory provisions and quotations from the leading decisions relating to the same, cannot fail to be of inestimable value to the California practitioner. The discussion and analysis of the decisions likewise appears to us to be excellent.

Fully one-half of the two volumes is taken up by footnotes to which the reader is referred by the text. These footnotes contain citations of cases and excerpts from the statutes and codes of the states other than California which the work purports to cover. They likewise contain additional citations of California cases. The text of the work does not extend beyond a discussion of the California law and procedure relating to New Trial and Appeal. It does not, even briefly, touch upon the other states. In this regard the title page of the work is possibly misleading. The procedure upon New Trial and Appeal is governed strictly by statute and there is no such consistent similarity in the statutes and codes of California and these other states as to give the text of the work any substantial value to practitioners of such other states. Moreover, the citations in the footnotes of cases and statutes covering states other than California, do not give a connected story of the procedure for any one state. As to these other states the references are incomplete.

This work is dated 1912 and it would be expected that its subject matter and references would be brought down to date. We find, however, in the case of one state at least, Colorado, that the statutory references are now practically obsolete, as in all cases of references to Colorado statutes, the old Mills' Annotated Statutes are referred to, not revised since 1905. It so happens that in 1911 the Colorado Legislature passed a new act governing appeals, which entirely supersedes the former act. This renders the Colorado citations to statutes contained in the work of no present use.

The value of this work to a practitioner of the State of California cannot be questioned. Outside of California, however, its usefulness appears to us to be at least confined to the broad principles of its subject matter.

H. Alexander Smith.